

surgical instrument 150 does not meet the elements of the claims, but instead asserts that element 170, the needle protecting sheath, teaches all of the claimed elements: “Applicant argues that the Violante instrument housing (150) lack (sic) limitations found in the claim language. This is true, however, examiner is interpreting the Violante needle protector (170) as the housing in regards to the present claims.” *Violante* clearly discloses that the needle protector 170 is a single piece that has a tapered bore 172 defined therein. *See Violante* FIG. 13 and col. 3, ll. 33-35. Further, as seen in FIG. 13 of *Violante*, nothing extends from a distal end of the needle protector 170.

The claim elements and the corresponding sections of *Violante* that are asserted as meeting those claim elements are discussed on pages 3-5 of the Office Action. However, with respect to claim 1, no assertion is made that *Violante* includes a housing *and* a shaft, much less a shaft that extends distally from a distal end of the housing. *See* Office Action, p. 3. While such an assertion is absent with respect to claim 1, such an assertion is found in the discussion of claim 12. More specifically, on page 4 of the Office Action, mention is made that the tapered bore 172 taught by *Violante* meets the claimed element of a shaft extending from a distal end of the housing. As previously introduced, the tapered bore 172 is defined within the needle protector 170. A tapered bore 172 within the needle protector 170, as recited in *Violante*, does not disclose or teach a housing and a shaft extending distally from a distal end of the housing.

Since *Violante* does not teach or suggest the device being claimed in independent claims 1 and 12, Applicants respectfully request that the rejection of claims 1, 3, 5, 7, 11-14, 16 and 18 under 35 U.S.C. § 102(b) be withdrawn.

B. Rejection Under 35 U.S.C. § 103

Claims 4, 6, 8-10, 15, 17, 19, and 20 were rejected under 35 U.S.C. § 103 as being unpatentable over *Violante* in view of *Ogburn* (U.S. RE 22,857).

Applicants traverse the Examiner’s rejection for obviousness on the grounds that the references – either individually or in combination – fail to teach or suggest each and every element of the rejected claims. As previously discussed, *Violante* fails to teach or suggest a housing and a shaft extending distally from a distal end of the housing. *Ogburn* fails to remedy the deficiencies of *Violante*. In particular, *Ogburn* teaches a pair of forceps. *See Ogburn*, col.

2, ll. 32-36. A cutter is located on one arm of the forceps. *See Ogburn*, col. 3, ll. 3-10. Accordingly, in contrast to the presently claimed invention of independent claims 1 and 12, *Ogburn* does not teach or suggest a suturing device having a housing and shaft extending distally from a distal end of the housing. In view of the failure of *Violante* and *Ogburn*, either individually or in combination to teach or suggest a suturing device having a housing and shaft extending distally from a distal end of the housing and claimed in independent claims 1 and 12, Applicants submit that the Examiner has failed to set forth a *prima facie* case for obviousness and respectfully request that the rejection be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 27 day of June, 2006.

Respectfully submitted,



FRASER D. ROY
Registration No. 45,666
Attorney for Applicants
Customer No. 022913
Telephone: (801) 533-9800